

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 3910 OF 2014**

Arvind Laxminarayan Upadhyay

....Petitioner.

Vs.

Thane Municipal Corporation & Ors.

....Respondents.

Mr. Sham Walve for the Petitioner.

Mr. R.S. Apte, Senior Counsel with Mr. N.R. Bubna for Respondent No.1.

Ms. Sushma Bhende, AGP for Respondent No.2.

**CORAM : SMT. VASANTI A. NAIK AND
C.V. BHADANG, JJ.****DATE : 5th JANUARY 2015.****P.C.:-**

By this Petition, the Petitioner seeks a writ of mandamus directing the Respondent-Corporation to take appropriate action against the Respondent Nos. 3 to 29 as the said Respondents are occupying the unauthorized and illegal structures/premises.

Shri Apte, the learned Senior Counsel for Respondent No.1 raises a preliminary objection to the tenability of the Writ Petition. It is stated that apart from the fact that the Petitioner has no locus-standi to file the Writ Petition, the Petitioner is also not entitled to seek a mandamus against the Corporation. It is stated that the Petitioner had not demanded an action against the Respondent Nos. 3 to 29 before filing of the Writ Petition. It is stated that no notice or representation is made by the

Petitioner to the Corporation seeking action against the Respondent Nos. 3 to 29. It is stated that in the absence of any demand to the aforesaid effect, the writ of mandamus cannot be issued.

Apart from the fact that the Petitioner does not have a locus-standi to file the Writ Petition, we find that the relief sought by the Petitioner cannot be granted. The Petitioner has filed the Writ Petition seeking a writ of mandamus against the Corporation and it is well settled that the Writ of Mandamus cannot be issued unless there is a demand in respect of the relief claimed and a refusal on the part of the Respondent to accede to the demand.

For the reasons aforesaid, the Writ Petition is dismissed with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)